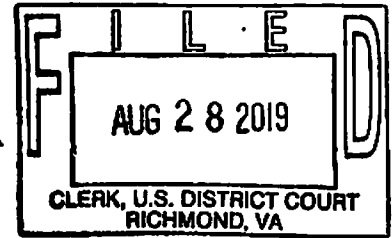


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



UNITED STATES OF AMERICA)
)
v.) Criminal No. 3:15CR83–HEH
)
DANTA OMAR ROBERTS,)
)
)
Petitioner.)

MEMORANDUM OPINION
(Granting 28 U.S.C. § 2255 Motion)

Danta Omar Roberts (“Petitioner”), a federal inmate proceeding *pro se*, filed this motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Petitioner asserted that he was entitled relief on the following grounds:

- Claim 1 Petitioner failed to receive the effective assistance of counsel because counsel failed to follow an appeal as directed. (ECF No. 29, at 4.)¹
- Claim 2 Petitioner failed to receive the effective assistance of counsel because counsel failed to advise him that by pleading guilty he and his immediate family would be rendered ineligible to receive federal benefits. (*Id.* at 5.)
- Claim 3 Petitioner failed to receive the effective assistance of counsel because counsel failed to advance a viable challenge to Petitioner’s Career Offender enhancement under the Sentencing Guidelines (“USSG”). (*Id.* at 6.)


By Memorandum Opinion and Order entered on May 15, 2019, the Court dismissed Claims 2 and 3 and set Claim 1 for an evidentiary hearing. (ECF Nos. 46, 47.)

¹ The Court employs the pagination assigned by the CM/ECF docketing system to all citations in the record.

On August 23, 2019, the Court conducted an evidentiary hearing on Claim 1. For the reasons stated from the bench, the Court will grant Petitioner's 28 U.S.C. § 2255 Motion with respect to Claim 1. The Judgment in a Criminal Case entered October 6, 2015 (ECF No. 26) will be vacated. An identical Judgment in a Criminal Case will be issued contemporaneous with this Memorandum Opinion and Order so as to permit Petitioner to file a Notice of Appeal.

Petitioner is hereby advised that he has the right to appeal his criminal case to the United States Fourth Circuit Court of Appeals. Should Petitioner choose to appeal, he must file a Notice of Appeal with the Clerk of Court within fourteen (14) calendar days after the date the Amended Judgment of conviction is filed or within fourteen (14) calendar days after any government appeal is filed, whichever is later. Fed. R. App. P. 4(b)(1)(A). Counsel for Petitioner is directed to promptly provide this Memorandum Opinion and Order to Petitioner and ascertain whether Petitioner wishes to pursue an appeal.

An appropriate Order will accompany this Memorandum Opinion.

 /s/_____
Henry E. Hudson
Senior United States District Judge

Date: Aug. 28, 2019
Richmond, Virginia